

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	CC Docket No. 99-249
Low-Volume Long Distance Users)	

**REPLY COMMENTS OF BELL ATLANTIC¹
ON NOTICE OF INQUIRY**

The majority of commenters agree that competition rather than regulation is the way to control long distance prices and benefit all consumers, including those that make a low volume of calls. The way to achieve that competition is clear. The Commission should allow Bell operating companies – the largest potential competitors to the long distance incumbents – to offer competing long distance service.

AT&T and MCI argue that the market is already “extremely competitive,” but that is demonstrably not the case. *See* MCI Comments at 3. AT&T’s own economist explains that “in a competitive market, prices inevitably will change to reflect changes in costs.” Declaration of Gregory L. Rosston, ¶ 82, attached to AT&T Comments. In the long distance market, costs have fallen dramatically, and prices have not followed. For example, in New York, AT&T’s charges to its residential customers have more than doubled between 1991 and July, 1999. At the same time access charges have fallen by 30 percent. *Application by New*

¹ The Bell Atlantic telephone companies (“Bell Atlantic”) are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

York Telephone Company for Authorization to Provide In-Region InterLATA Services in New York (“*New York Application*”), Appendix A, Declaration of William Taylor, ¶ 19. As a result of similar increases by all three of the largest long distance carriers, their margins – the spread between price and cost – have grown significantly over the same period of time. *New York Application*, Appendix A, Declaration of Paul MacAvoy, ¶ 84. As Professor MacAvoy demonstrated, by “1993 or 1994, price-cost margins for the three incumbent major carriers were moving in such close concert as to be nearly indistinguishable. In 1995 to 1999, they were again virtually identical and were at levels approximately twice that in the late 1980’s.” *Id.* Thus, the largest long distance carriers fail AT&T’s own test of a competitive market.

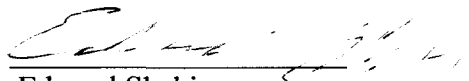
AT&T points to new promotions touted by it and MCI to bolster its claim that prices are actually falling. But as Bell Atlantic previously explained, those promotions provide no cost savings for the vast majority of consumers. *See* Bell Atlantic Comments at 5; *New York Application*, MacAvoy Declaration at ¶ 118 (customers need to make more than \$90 a month in long distance calls before their average rate even approaches seven cents); *New York Application*, Taylor Declaration at ¶ 26 (approximately three quarters of AT&T customers in New York do not have sufficient call volumes to get *any* benefit out of AT&T’s seven cent promotion).² In this docket, where the entire inquiry focuses on customers that make a low volume of long distance calls, it is not only unreasonable, but is deceptive for AT&T and MCI to highlight promotional plans that because of significant minimum charges provide no benefit at all to low volume customers.

² For the convenience of the Commission, relevant excerpts from the MacAvoy and Taylor Declarations are attached.

While AT&T concedes that there may be no cost effective options for low volume callers in the service offerings of AT&T and MCI, it argues there are other options for customers. In light of MCI's proposed take-over, it is ironic that AT&T points to Sprint as having such an alternative. AT&T Comments at 4. In fact, taken together, the three largest carriers control more than three quarters of the market. *See* FCC Preliminary Statistics of Communications Common Carriers, Table 1.4 (rel. May 28, 1999). Absent the entry of a major new competitor, it is unrealistic to point to the remaining collection of small carriers as providing customers a viable alternative to the big-three (or two).

Finally, CompTel (p. 6-7) argues that local exchange carriers should bear the burden of informing their local customers of dial around alternatives to presubscribed long distance service. This "solution" puts costs on the local exchange carrier because of a competitive failure in the long distance market. Moreover, to the extent customers call the local exchange carrier seeking further information, local exchange representatives will be unable to respond, putting unreasonable burdens and strains on local carriers' relationships with their customers. Ultimately, it is not fringe dial around providers, but new competition for presubscribed customers that will address competitive concerns in this market.

Respectfully submitted,



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October 20, 1999

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Application by New York Telephone)	
Company (d/b/a Bell Atlantic -)	
New York), Bell Atlantic)	Docket No. _____
Communications, Inc., NYNEX Long)	
Distance Company, and Bell Atlantic)	
Global Networks, Inc., for)	
Authorization to Provide In-Region,)	
InterLATA Services in New York)	

DECLARATION OF WILLIAM E. TAYLOR

Although the average customer was receiving a higher discount relative to basic rates in April 1999 than was the case in 1991, the increase in basic rates was so large—especially because of AT&T's fixed monthly per-customer charges—that it overwhelmed the discount effect of the calling plans.

17. I have less information about price changes for small business customers. But the only data I do have suggests that small business customers have received treatment similar to that which residential customers have received. I used a sample of customer bills in the northeast (including New York) both before and after the FCC's major changes in access charges and other fees on January 1, 1998. I found that, net of access charges and other fees:

the long distance carriers raised average prices paid by small business customers by \$0.021 per minute on January 1, 1998—a 26 percent increase in margins.

18. These residential and small business price increases contrast starkly with the price decreases that the long distance carriers have provided to large-volume business customers. Large-volume business users are sophisticated consumers, knowledgeable, and sensitive to price and quality. As observed by the FCC, these users routinely solicit proposals from multiple vendors and negotiate terms directly with the long distance carriers.²⁹ The average price of a minute of long distance service for a large corporation appears to have fallen by about 80 percent in nominal terms³⁰—from about 35 cents per minute in 1983 to about seven cents per minute in 1996.³¹

4. The incumbent long distance carriers substantially raised residential rates despite falling costs.

19. At the same time that the long distance carriers increased their rates for residential customers, their own costs fell. In particular, for residential customers as a whole, access charges and other fees that interexchange carriers (IXCs) pay to local exchange carriers

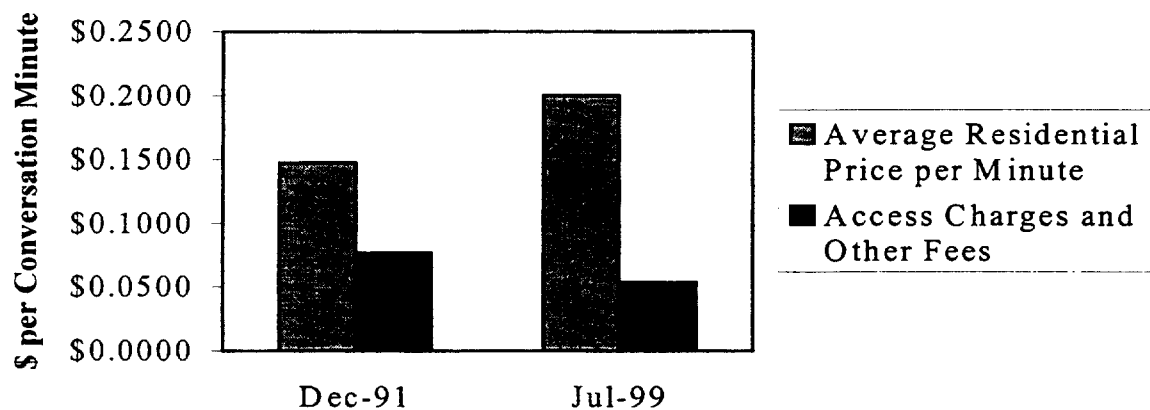
²⁹ *Competition in the Interstate Interexchange Marketplace*, 6 FCC Rcd. 5880, 5887, 1991.

³⁰ Michael T. Felix, "Preparing the Market for Enhanced Service Implementation," *Telephony*, March 25, 1996, Vol. 230, No. 13, at 40.

³¹ "FTS-2000 Price Determination Paying Off, Glenn Says," *Telecommunications Reports*, April 5, 1993. "Post-FTS 2000 Planning Described to Senate Panel; GSA, Defense Say Consolidated Procurement Possible," *Telecommunications Reports*, May 9, 1994. David Rohde, "VPN Rates on the Way Down," *Network World*, December 2, 1996, Vol. 13, No. 4g, pp. 1, 14-15.

decreased by \$0.023 per conversation minute, or 30 percent from 1991 to July 1999.³² However, net of access charges and other fees, AT&T increased its average residential interstate direct-dial price in New York by \$0.076 per minute, or 108 percent.³³ Figure 1 below shows how AT&T's raising prices—even with the growth of calling plans—has led to this net increase.

Figure 1
AT&T Raised Average Residential Prices While Access
Charges and Other Fees Declined



20. AT&T's residential basic-rate increases (relative to access charges and other fees) were much larger than the increases in average residential prices shown above. Figure 2 below shows the changes in interstate direct-dial rates paid by AT&T's New York basic-rate residential customers, including its fixed monthly charges. It also shows the net changes in

³² The other fees are the NECA Universal Service Fund and Lifeline Assistance plan assessments (discontinued January 1, 1998), Presubscribed Interexchange Carrier Charges (PICCs, initiated January 1, 1998), and Universal Service Fund assessments (initiated January 1, 1998). Results are based on analysis of data from Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, *Trends in Telephone Service* (September 1999), Tables 1.1 and 1.2; Federal Communications Commission, First Report and Order, *Access Charge Reform*, CC Docket 96-262, *Price Cap Performance Review for Local Exchange Carriers*, CC Docket 94-1, *Transport Rate Structure and Pricing*, CC Docket No. 91-213, and *End User Common Line Charges*, CC Docket No. 95-72 (Released May 16, 1997), FCC 97-158, ¶ 94 and fn. 114; Federal Communications Commission, Public Notice, "Third Quarter 1998 Universal Service Contribution Factors Revised and Approved," CC Docket No. 96-45 (June 12, 1998), DA 98-1130; Federal Communications Commission, *Monitoring Report* (May 1997), Table 15.5; and *MarketShare Monitor*, *op. cit.*

³³ This calculation is based on average residential prices that fully account for discounts that some customers receive.

industry-average access charges and other fees.³⁴ AT&T increased its basic rates net of access charges and other fees by \$0.315 per conversation minute or 503 percent from 1991 to July 1999.

³⁴ In New York for AT&T, residential basic-rate customers have low average interstate usage: average interstate direct-dial minutes per residential basic-rate customer are only 24 percent of the average usage of residential customers as a whole. Thus, fixed monthly access fees charged to the IXC's weigh much more heavily for basic-rate customers than for customers as a whole. Over the period 1991 to July 1999, per-minute access charges fell by 60 percent, while the FCC raised average fixed monthly fees per line by about 170 percent. The net result for AT&T's New York residential customers was a 15.8 percent *increase* in access charges and other fees for basic-rate customers but a 30 percent *decrease* for customers as a whole. Included in those calculations is the dramatic restructure on July 1, 1999. On that date, the local exchange carriers reduced per-minute access charges by about \$0.009 per conversation minute, or 24 percent. But the FCC also significantly increased the universal service assessment recovered through access rates and authorized increases in the PICC, which raised the average PICC attributable to AT&T's New York residential customers by \$0.49 per customer, or 80 percent. For residential plus business customers combined, the net effect was a rate reduction. For low-usage customers, however, effective access charges rose: for AT&T's New York residential customers, average access charges plus other fees rose only 0.7 percent, but they increased by 32.7 percent for residential basic-rate customers.

Figure 2
AT&T Rate Increases — New York Average Direct-Dialed
Domestic Interstate InterLATA Residential Basic Rates
and Access Charges and Other Fees
(Expressed per Conversation Minute)

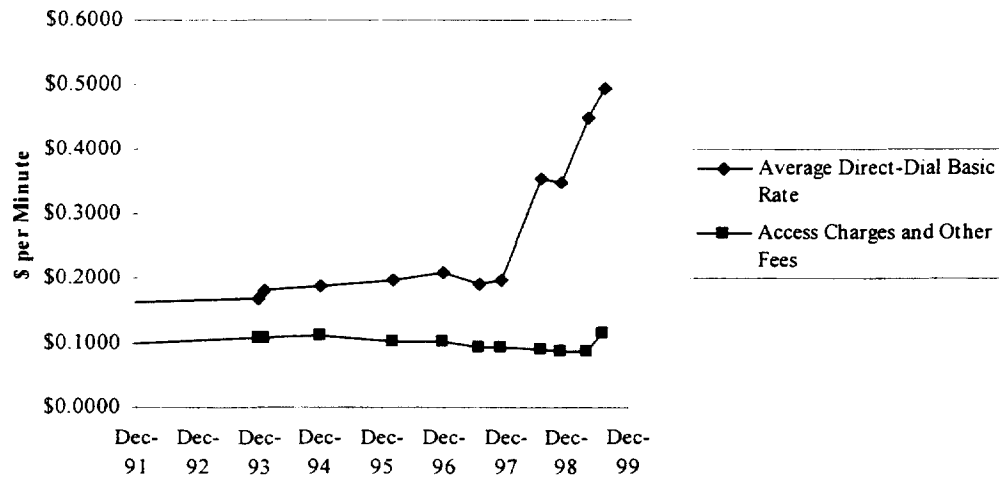
	Average	Percent	Access	Percent	Basic Rate	
	Basic Rate	Change	Charges	Change	Net of	Percent
			and Other		Access	Change
			Fees		Charges	
					and Other	
			Fees		Fees	
1991	\$0.162		\$0.100		\$0.063	
1993	\$0.171	5.2%	\$0.110	10.3%	\$0.061	-2.8%
Jan-94	\$0.182	6.3%	\$0.110	-0.1%	\$0.072	17.8%
Dec-94	\$0.188	3.7%	\$0.111	0.9%	\$0.078	8.0%
Feb-96	\$0.197	4.3%	\$0.103	-7.2%	\$0.094	20.8%
Dec-96	\$0.208	5.9%	\$0.103	0.4%	\$0.105	11.9%
Jul-97	\$0.191	-8.3%	\$0.095	-7.9%	\$0.096	-8.7%
Nov-97	\$0.197	3.0%	\$0.095	0.0%	\$0.101	5.9%
Jul-98	\$0.354	80.2%	\$0.091	-4.6%	\$0.263	159.8%
Nov-98	\$0.349	-1.4%	\$0.089	-2.3%	\$0.260	-1.1%
Apr-99	\$0.449	28.7%	\$0.087	-1.8%	\$0.362	39.1%
Jul-99	\$0.493	9.8%	\$0.116	32.7% ³⁵	\$0.378	4.4%
Cumulative	\$0.331	203.7%	\$0.016	15.8%	\$0.315	502.5%
Change						
1991-Jul-99						

(Numbers might not add because of rounding.)

21. Figure 3 shows basic rates and access charges and other fees in graphical form.

³⁵ This increase was due to two effects. First, fixed monthly access charges paid by IXC's were increased substantially due to increased universal service assessments. Second, per-minute access charges fell, so that average access charges fell in the aggregate. However, the net effect for the subset of users here was an increase in the effective access charges IXC's paid to serve them. See Footnote 34.

Figure 3
AT&T Raised Interstate Residential Basic Rates Relative
To Access Charges and Other Fees



22. The long history of IXC interstate price increases—in both basic rates and average rates for all residential customers—is not what one would expect to emerge in a competitive market benefiting from rapid technological change³⁶ and, in the case of residential customers as a whole, large cost reductions in its most significant input.³⁷ If the interLATA toll market were genuinely competitive, decreases in unit costs through productivity gains and through reductions in the price of a key input such as carrier access would be passed through to consumers in the form of lower prices.

³⁶ In a previous filing before the FCC, AT&T reported data showing that, from 1985 to 1991, it reduced its capital costs relative to output by 2.1 percent per year, and it reduced its non-capital costs by 7.3 percent per year. (R. Schmalensee and J. Rohlfs, “Productivity Gains Resulting from Interstate Price Caps for AT&T,” report filed by AT&T in CC Docket No. 92-134, July 1992. The cost reductions I report here are in real terms.) Since then, AT&T has continued to improve its productivity: “Total cost of telecommunications services declined [in 1993 and 1994] despite higher volumes, *in part* because of reduced prices for connecting customers through local networks. *In addition, we improved our efficiency in network operations, engineering and operator services.*” (AT&T 1994 Annual Report, p. 24.) As the FCC relaxed regulation on AT&T, data on its long distance costs have become less accessible, but there is no compelling reason to believe that its reductions in unit costs should not have continued. Indeed, more recent financial results depict a similar story: With lower access costs and higher revenues, AT&T’s gross margin percentage increased by 3.5% (from 46.57% to 50.07%) between 1994 and 1997. (AT&T 1996 and 1997 consolidated income statements.)

³⁷ In its 1997 *Annual Report*, AT&T reported that its access expenses had fallen to 31.8 percent of total revenue from 32.3 percent in 1996 and 36.4 percent in 1995 (p. 30).

23. In the face of these findings of significant price increases for the major carriers' residential customers, it is untenable to claim that the residential long-distance market is effectively competitive. An effectively competitive market would have protected consumers from price increases unrelated to costs and would have passed through cost decreases. The interLATA market has profoundly failed to do that.

5. Recent new calling plans are not a price war but are a forerunner of entry by Bell Atlantic and others.

24. Recently, the Big Three long distance carriers announced new optional calling plans that received significant attention from the press. Some reporters have characterized the announcements as a "price war."³⁸ On the contrary, these new calling plans are not part of a price war, and this flurry of offerings does not change my conclusions about the lack of competitiveness of the residential interexchange market. The individual company introductions are as follows:

- On July 19, Sprint announced a new Sprint Nickel NightsSM optional calling plan. This plan has an interstate direct-dial rate of \$0.05 per minute on weeknights—7 p.m. to midnight—and a rate of \$0.10 per minute at other times for \$5.95 per month.³⁹ Sprint customers also pay a carrier line charge and a Universal Service Fund charge.
- On August 9, MCI WorldCom followed with two optional calling plans. One plan, called MCI 5 Cents Everyday, charges \$0.05 per minute for interstate direct-dial calls from 7 p.m. to 7 a.m. Monday through Friday and all day Saturday and Sunday, it charges \$0.25 for weekday calling, and it has a monthly fee of \$1.95.⁴⁰ It also has a \$5.00 per month minimum usage charge, plus a carrier line charge and a Universal Service Fund charge.⁴¹ MCI's other plan, called MCI 5 Cents Everyday Plus, charges \$0.05 per minute from 7 p.m. to 7 a.m. Monday through Friday and all day Saturday

³⁸ E.g., Saul Hansell, "AT&T Joins Rivals by Lowering Rate for Long Distance," *New York Times*, August 3, 1999, pp. A1 and C6.

³⁹ Sprint press release, <http://www.sprint.com/Stemp/press/releases/9907/9907190829.html>, July 19, 1999.

⁴⁰ MCI WorldCom press release, <http://www.wcom.com/cgi-bin/pr/display.pl?cr/19990809>, August 9, 1999.

⁴¹ Telephone conversation with MCI WorldCom salesperson, August 9, 1999. Although the salesperson at first denied that there are any additional charges, an MCI WorldCom customer service representative explained that MCI WorldCom charges a carrier line charge of \$1.07 and a Universal Service Fund charge of an additional 7.2 percent. According to the customer service representative, neither of the latter charges count toward satisfying the \$5.00 minimum.

and Sunday and charges \$0.10 per minute for weekdays; its subscription fee is \$4.95 per month plus the carrier line charge and a Universal Service Fund charge.⁴²

- On August 30, AT&T also offered a new optional calling plan called AT&T One Rate® 7 Cents. For interstate calls this plan charges \$0.07 per minute day or night, Monday through Sunday, and it has a \$5.95 monthly subscription fee plus its carrier line charge and universal connectivity charge.⁴³

25. There are several reasons why these new plans do not reflect the start of a price war for residential customers and do not contradict my conclusion that the residential segment of the market is inadequately competitive.

26. First, as with most of the previous calling plans, these new plans are targeted only to the portion of the residential market that makes a high volume of long distance calls. The large monthly subscription fees or minimum charge requirements guarantee that the plans will be unattractive to low-volume customers. For instance, the 74 percent or more of AT&T's residential customers in New York having the lowest toll usage could not reduce their interstate bill by taking the new calling plan instead of what plans were already available.

27. Second, there is far less to the new plans than might at first appear. For instance, consider a comparison between what a customer would have paid under AT&T's old One Rate Plus plan and its new One Rate 7 Cents plan. Customers with the One Rate Plus plan could request a rate of \$0.05 per minute on Sundays, and they would pay \$0.10 per minute on other days; the subscription fee is \$4.95 per month instead of \$5.95 per month under the One Rate 7 Cents plan. Also important is the fact that, before July 1, AT&T charged carrier line charges and universal connectivity charges totaling \$1.78 per month, whereas after July 1 it raised the fees to a total of \$2.50 per month. If a customer were to have 100 minutes of interstate calling and a typical percentage of Sunday calls, the customer would pay 2 percent more by taking the One Rate 7 Cents plan now than he would have paid with the One Rate Plus plan before July.

⁴² MCI WorldCom press release, August 9, 1999, *op. cit.*, and MCI salesperson and customer service representative (August 9, 1999), *op. cit.*

⁴³ AT&T press release, <http://www.att.com/press/item/0,1193,630,00.html>, August 30, 1999, and telephone conversation with AT&T service representative, August 31, 1999. AT&T raised its carrier line charge to \$0.99 per month and raised its universal connectivity charge to \$1.51 per month. Press release, <http://www.att.com/press/item/0,1193,546,00.html>, June 30 1999. AT&T offers a variant of the plan that includes intraLATA toll calls for a monthly fee of \$4.95 instead of \$5.95. The intrastate intraLATA and interLATA rates vary by state.

28. Third, only one percent of AT&T's New York residential customers are paying prices that are as low as what AT&T's average rates would have been if only AT&T had passed through the reductions in access charges and other fees from which it profited from 1991 through July 1999.⁴⁴ How might this result change because AT&T introduced the One Rate 7 Cents plan? Consider an extremely conservative scenario. Suppose that—unrealistically—every AT&T customer who could reduce her or his bill by subscribing to the One Rate 7 Cents optional calling plan did call AT&T to subscribe to the plan. I have calculated that no more than 12 percent of customers in this extreme scenario would pay a price as low as what the *average* price today should be if the residential market were truly competitive.⁴⁵

29. Regardless, even focusing on just that subset of customers that benefit from lower prices, industry analysts have recognized that the new calling plans are a preemptive response to the imminent entry of new competition by the BOCs.⁴⁶ In the absence of actual market entry by Bell Atlantic and the other BOCs, it is unclear if even these limited reductions would be sustained.

B. Bell Atlantic's Entry Will Introduce an Important Source of Added Competition.

30. As a major new facilities-based competitor, Bell Atlantic will spark competition in three key areas. First, it will be a strong new competitor in the basic long distance market, so it can help break the pattern of increasing prices while also helping to spur the introduction of new and improved services. As the FCC recently observed, "the entry of the BOC interLATA affiliates into the provision of interLATA services has the potential to increase price competition and lead to innovative new services and marketing efficiencies."⁴⁷ Second, Bell

⁴⁴ Based on analysis of data from *MarketShare Monitor*, *op. cit.*

⁴⁵ Based on analysis of data from *MarketShare Monitor*, *op. cit.*

⁴⁶ Cable News Network Financial, *Market Coverage*, Lauren Thierry, "Telecom Sector Analysis," interview of Michael Mahoney, head of telecom investing at Dresdner RCM, August 9, 1999; Shawn Young, "AT&T Enters the Fray with New Rates; CEO Says Co. Undervalued," *Dow Jones News*, August 30, 1999, citing Janney Montgomery Scott analyst Anna-Maria Kovacs.

⁴⁷ *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*, Second Report and Order in CC Docket No. 96-149 and Third Report and Order in CC Docket No. 96-61, released April 18, 1997, at ¶ 92.

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In the Matter of)	
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Application by New York Telephone Company)	
(d/b/a Bell Atlantic - New York), Bell Atlantic)	
Communications, Inc., NYNEX Long Distance)	Docket No. _____
Company, and Bell Atlantic Global Networks,)	
Inc., for Authorization to Provide In-Region,)	
InterLATA Services in New York)	
)	
)	

**DECLARATION OF PAUL W. MACAVOY IN SUPPORT OF
BELL ATLANTIC'S PETITION TO PROVIDE
IN-REGION, INTERLATA TELECOMMUNICATIONS SERVICES**

EXECUTIVE SUMMARY

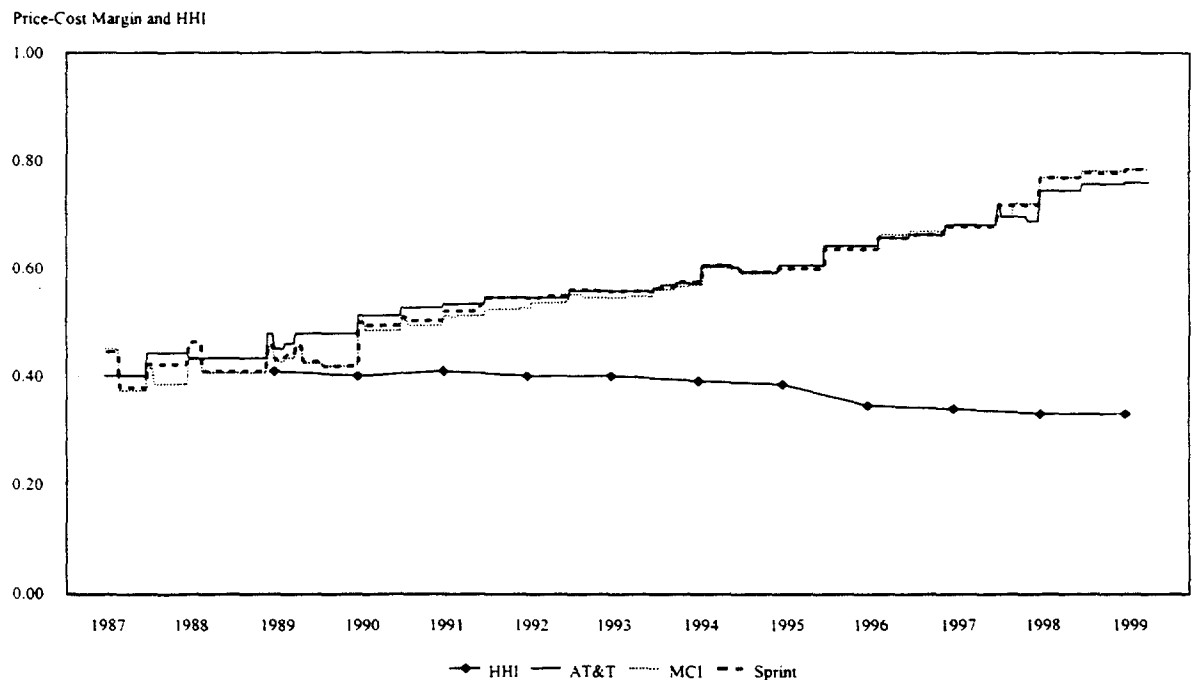
1. The Telecommunications Act of 1996 requires regional Bell operating companies seeking to offer in-region, interLATA long-distance services to petition the Federal Communications Commission ("FCC") for authorization. Before a petitioner can be granted this approval, the FCC must determine that its entry into interLATA markets within its region is "consistent with the public interest, convenience, and necessity." This declaration seeks to determine whether entry in the state of New York by Bell Atlantic Corporation ("Bell Atlantic") would be consistent with this "public interest" standard.

2. As an economist, I interpret entry to be in the public interest if it results in an improvement in consumer welfare. The public interest is served, because consumer

83. **Price-Cost Margins.** Price-cost margins for the major categories of service, including both standard rate schedule and discount MTS are shown in Figures Nine through Eleven. Margins for switched and dedicated inbound WATS, switched and dedicated outbound WATS, and switched and dedicated Combined Services also have been estimated.

84. **Interstate MTS Price-Cost Margins for Standard Plan MTS Service Offerings.** The price-cost margins of AT&T, MCI, and Sprint for providing standard interstate MTS services were increasing in the latter part of the 1980s, albeit at different rates. (See Figure Nine.)

FIGURE NINE
PRICE-COST MARGINS AND MARKET CONCENTRATION
FOR STANDARD MTS



Sources: Marginal costs from FCC and rates from HTL Telemanagement, Ltd.

Beginning in 1990, however, margins for the three firms became more similar, and also began to increase. By 1993 or 1994, price-cost margins for the three incumbent major carriers were moving in such close concert as to be nearly indistinguishable. In 1995 to 1999, they were again virtually identical and were at levels approximately twice that in the late 1980's.

85. This widening of the price-cost margin has taken place despite the fact that seller concentration in the market has *fallen*. That margins increased as concentration declined stands in contrast to the competitive process and is possible only if tacit cooperation in price setting among the market participants has become more disciplined. (I.e., tacit collusion on prices as measured by " v " has increased to eclipse declining market shares in HHI so that, in $(p - mc) / p = [HHI (1 + v)] / e$, the product of HHI and $(1 + v)$ is larger.)

86. ***Discount Plan Price-Cost Margins.*** That AT&T, MCI, and Sprint offer various discount plans for MTS service to their customers does not negate this inference that tacitly collusive pricing strategies have become more widespread. Price-cost margins using the lowest-price discount plan from each carrier at any given time show a similar relationship to HHI as for those on standard plans.⁷² (See Figure Ten.) There has been more variability in margins among the three carriers than in standard rate MTS, but all three have steadily increased over the last decade. These increases, moreover, have continued while market concentration has fallen (with the exception of the period associated with the increase in concentration from the acquisition of MCI by WorldCom).

⁷² Attachment A to this declaration details the prices underlying this calculation and indicates which calling plan was selected at each date.

112. Although AT&T characterizes the three dollar charge as a minimum usage requirement, it effectively represents a substantial increase in MTS prices for low-volume residential users that possess the least elastic demand for long distance calling. Assuming for the sake of argument that the average interLATA toll call is four minutes long,¹⁰⁰ an AT&T customer subject to the minimum charge who makes only three long-distance calls a month will effectively pay a rate of \$0.250 per minute; the rate is \$0.375 for two calls of average length per month. A customer making only one long-distance call in a given month will be charged as though the price for MTS were \$0.750 per minute, resulting in a price-cost margin of more than 90 percent for AT&T on that call. Unless 50 cents per minute of additional costs have been incurred by this carrier in completing that call, this is non-competitive price discrimination.

113. ***Recent Calling Plan Announcements.*** Over the last few months, AT&T, MCI WorldCom and Sprint have all begun advertising residential calling plans that claim reduced per-minute rates, some as low as five cents per minute for calling during certain parts of the day. The question is whether these new plans constitute genuine price

Customers (Aug. 14, 1998). See also Sarah Schmelling, A Minimum Price to Pay, *Telephony*, Sept. 7, 1998, at 33 (citing estimate of AT&T Chairman C. Michael Armstrong).

¹⁰⁰ In 1997, there were approximately 646 billion originating and terminating interLATA billed access minutes, both interstate and intrastate. Dividing half this total by the number of interLATA toll calls completed that year (nearly 79 billion), we can estimate that the average interLATA call is approximately 4.1 minutes long. Federal Communications Commission, *Preliminary Statistics of Communications Common Carriers*, at Table 2.6 (1997 ed. 1998).

reductions that result from competition not presently observed.¹⁰¹ On close examination, while high-volume customers can expect to realize reductions from enrolling in these plans, the majority of small- to medium-intensity users will realize effective price increases. These developments fit into a pattern of pricing by the three large long distance carriers that has been underway for several years in which price discrimination has intensified.

114. In July of 1999, Sprint announced its "Nickel Nights" calling plan, which – for a "Low \$5.95 monthly fee" – offers 1+ interstate calling at the rate of five cents per minute between the hours of 7:00 p.m. and midnight every day and ten cents per minute all other times.¹⁰² The following month, MCI WorldCom responded with two new plans of its own. The "MCI 5¢ Everyday" plan surpasses the Sprint offering in terms of the number of hours over which the five cent rate is applicable (from 7:00 p.m. to 7:00 a.m. every Monday through Friday and all day on Saturday and Sunday), and the monthly fee is considerably less at \$1.95. The rate under the plan for all other interstate calls, however, is \$0.25 per minute.¹⁰³ MCI's second offering, "MCI 5¢ Everyday Plus,"

¹⁰¹ See, e.g., MCI Broadens Nickel Per Min. Calling Plan to Weekdays, *Communications Daily*, Aug. 10, 1999 (statement of John Donoghue, MCI/WorldCom senior vice president of consumer marketing).

¹⁰² Sprint, Sprint Nickel Nights – 5¢ a Minute Every Night, <http://csg.sprint.com/home/nickel/index.html> (Aug. 26, 1999). The five cent rate hours are extended from 5:00 p.m. to midnight for callers in California and Hawaii. *Ibid.* See also Sprint Introduces Nickel-A-Minute Calling Every Evening, PR Newswire, July 19, 1999.

¹⁰³ See, e.g., MCI Broadens Nickel Per Min. Calling Plan to Weekdays, *Communications Daily*, Aug. 10, 1999; Reuters, Off-Peak Rates As Low as 5 cents In MCI Offer, *N.Y. Times*, Aug. 10, 1999, at C3.

decreases this weekday daytime rate from \$0.25 to \$0.10 per minute but raises the monthly fee to \$4.95. Under both plans, customers are subject to a \$5.00 monthly spending minimum not unlike the three dollar minimum imposed by AT&T a year earlier.¹⁰⁴

115. As with the AT&T \$3.00 minimum discussed above, the \$5.00 monthly flat charge on the new MCI WorldCom plans represents a substantial increase in MTS prices for low-volume residential users. If the average interLATA toll call is four minutes long, then a MCI WorldCom customer would have to place as many as twenty-five long distance calls each month in order to realize the advertised five cent rate. For consumers with lesser calling volumes, the monthly flat charge and the usage charges together represent a price hike: Even if a customer were able to qualify for the five cent rate across her entire bill, never placing any weekday daytime long distance calls, she would still face from MCI WorldCom an effective rate of \$0.125 per minute if she placed, say, only ten calls per month.

116. Industry observers have come to the same conclusion. Taking into consideration the monthly fees and calling patterns, consumer groups and other carriers have demonstrated that consumers with modest calling volumes are not likely to reap any

¹⁰⁴ See, e.g., MCI Broadens Nickel Per Min. Calling Plan to Weekdays, *Communications Daily*, Aug. 10, 1999; AT&T News Release, AT&T Announces \$3 Monthly Minimum for New Residential Customers (Aug. 14, 1998). Apparently, the \$1.95 and \$4.95 monthly fees contribute toward satisfaction of the \$5.00 minimum charge under the MCI/WorldCom plans.

price benefits from the new plans, particularly when compared to the carriers' other existing discount MTS plans.¹⁰⁵

117. There is no apparent cost variation between low- and high-volume residential callers that would justify such disproportionate price changes.¹⁰⁶ If it were true that serving low-use customers generated marginal costs significantly greater than those of high-use ones, then it would be difficult to determine whether or not these effective price increases for low-volume customers relative to high-volume customers were the result of additional tacit collusion on the part of the long distance carriers or the

¹⁰⁵ Indeed, according to the Telecommunications Research and Action Center, a caller would have to make about eighteen average-length calls per month, or "about three hours of talking," to have the MCI 5¢ Everyday pricing scheme "break even" with such other MCI discount plans as MCI OneSavings. CBS News Transcript, "Sam Simon, Chair of the Telecommunications Research & Action Center, Discusses the New Five-Cent Calling Plans Among the Top Three Telephone Companies," CBS This Morning (Aug. 11, 1999). Furthermore, a rate comparison recently issued by interexchange provider Talk.com and reported by PR Newswire estimated that, taking into account calling times and monthly fees, an "average" customer could expect to pay effective per minute rates of \$0.125 cents under the MCI 5¢ Everyday plan, \$0.126 under Sprint Nickel Nights, and \$0.138 under AT&T's One Rate plan. According to the report, the "average" customer assumes 200 minutes of use per month, of which 65 percent (130 minutes) is interstate calling. Calling time patterns employed by the report were apparently based on MCI/WorldCom and Talk.com estimates. See Five Cents Per Minute Long Distance Rate plan '24/7' Now Available Anytime, Any Day from GTC Telecom, PR Newswire, Aug. 12, 1999.

¹⁰⁶ According to an officer of the company, furthermore, MCI/WorldCom's new calling plans represent less an effort to reduce prices to consumers than an attempt to reduce the carrier's marginal network costs across the entire body of its traffic, both business and residential, both voice and data. According to John Donoghue, senior vice president for consumer marketing, the five cent calling plans were intended to stimulate traffic volume on the company's network outside daytime business hours. The company's decision to focus on business customers has apparently influenced the engineering of its network, with the result that "[o]ur network is underutilized at night and weekends." Doug Levy, 5 Cents Now Buys an MCI Minute, USA Today, Aug. 10, 1999, at 3B. See also Reuters, Off-Peak Rates As Low as 5 cents In MCI Offer, N.Y. Times, Aug. 10, 1999, at C3.

result of legitimate competition. However, there is in fact no evidence to suggest that such a cost difference exists between residential service to low-volume users and service to heavy callers. This suggests that the increasingly discriminatory price structures adopted for residential long distance have resulted from further tacit collusion among AT&T, MCI WorldCom, and Sprint.

118. In a similar vein, AT&T recently announced its "AT&T One Rate[®] 7¢ plan" that has a seven-cent usage charge for all calls with a fixed monthly fee of \$5.95. This plan has been filed by AT&T as a "promotional" plan, meaning that it could be withdrawn by AT&T in the near future. The advertising campaign for this plan is misleading, in that it offers only the seven-cent anytime rate and fails to mention the monthly charge. The average charge per minute realized by a customer with average usage is substantially higher than seven cents. For example, a customer with monthly bill of \$20 pays approximately ten cents per minute. Only the customer that purchases approximately 20 hours of long-distance service per month, resulting in a monthly bill of approximately \$90, pays \$0.075 per minute. Of course, the marginal price per minute equals seven cents in these examples, given that the fixed \$5.95 per month has already been paid. But most customers make their purchasing decisions repetitively, month after month, year after year, and the average charge per minute for their usage levels is the price on which they base their decisions. Only a monthly charge equal to costs of capital, and usage prices close to access charges, would be a "competitive" two-part price.

119. In sum, despite the high-profile advertising campaigns and talk in the press of "price wars," these new price plans do not constitute a fundamental shift to competitive behavior. Instead, they are two-part tariffs with fixed monthly fees that have

the effect of increasing the price per minute for low-usage customers and reducing the price per minute only for users with well-above average usage levels. Thus, relatively few customers subscribe to these plans, compared to the millions of customers who continue to pay standard MTS rates. The results can better be characterized as monopoly-style discrimination, not competition.

V. CONCLUSIONS

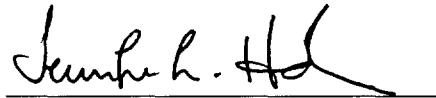
120. Consumers in Bell Atlantic's service area would gain almost three billion dollars annually as the direct result of its ability to offer in-region, interLATA services. Benefits of this magnitude would follow from lower prices and improved packaged or bundled service after Operating Company entry without taking account of the entry-inducing effect of increasing the competitiveness of long-distance markets for telecommunications services.

121. At present, consumers in states served by Bell Atlantic pay above-competitive prices, resulting from tacitly collusive behavior of the three major long-distance carriers. That long-distance carriers can and do sustain prices in excess of competitive levels is evident from the fact that, despite significant declines in market concentration over the fifteen years since AT&T divestiture, the major long-distance carriers have been able to increase their price-cost margins on both standard and discount services.

122. Entry by Bell Atlantic into long-distance service in its region would increase the number of large full-service providers. Significant consumer welfare gains

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 1999, the foregoing "Reply Comments of Bell Atlantic on Notice of Inquiry" were filed at the Office of the Secretary, Federal Communications Commission and a copy served on the Commission's copy contractor, ITS.

A handwritten signature in black ink, appearing to read "Jennifer L. Hoh", written over a horizontal line.

Jennifer L. Hoh